

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)
)
Expert Linears America, LLC Request for Waiver) **WT Docket No. 16-243**
of the 15dB Gain Limitation for External Power)
Amplifiers in the Amateur Radio Service)

To: The Chief, Wireless Telecommunications Bureau

**COMMENTS OF FLEXRADIO SYSTEMS
ON EXPERT LINEARS AMERICA, LLC.'S REQUEST FOR WAIVER**

Pursuant to Section 1.925(a) of the Commission's Rules [47 C.F.R. § 1.925(c)(i)], Stephen M. Hicks, an Extra Class Amateur License holder and VP Engineering for FlexRadio Systems hereby respectfully submits comments in response to the Request for Waiver of Section 97.317(a)(2) of the Commission's rules¹ filed by Expert Linears America, LLC ("Expert"). In opposition to the Request for Waiver, FlexRadio Systems states as follows:

1. On April 7, 2016, Expert filed a Petition for Rulemaking, RM-11767,² to remove the 15dB amplifier gain limitation stipulated in Section 97.317(a)(2) on the Commission's rules.
2. The Request for Waiver in the instant case requests relief from Section 97.317(a)(2) of the Commission's rules, the same rule referenced in RM-11767, and would be unnecessary should the Commission grant the Petition for Rulemaking (RM-11767).
3. In the Request for Waiver, Expert stipulates that the specific amplifier for which relief from the rules is requested, the Model 1.3K FA, has been modified to comply with the Commission's rules.
4. Section 1.925(b)(3)(ii)³ of the Commission's rules indicate that the Commission may grant a waiver if it can be shown that "In view of unique or unusual factual circumstances of the instant case, application of the rule(s) would be inequitable, unduly burdensome or contrary to the public interest, or the applicant has no reasonable alternative."

¹ 47 C.F.R. §97.317(a)(2)

² See Petition of Expert Linears America, LLC, for Rulemaking, RM-11767 (Apr. 07, 2016).

³ 47 C.F.R. §1.925(b)(3)(ii)

5. Since all current amplifier manufacturers must comply with 97.317(a)(2) and existing amplifier manufacturers in the amateur radio service, including Expert, are selling amplifiers into the market with the existing rules, there is no immediate economic hardship, inequity nor undue burden in the instant case that would be corrected by a waiver of the Commission's rules.
6. While FlexRadio Systems supports the Petition for Rulemaking (RM-11767) for technical reasons and has filed comments to this effect⁴, it is worth noting that RM-11767 would provide a level playing field for all manufacturers of amplifiers in the Amateur Radio service, whereas a waiver granted to Expert would benefit only Expert to the exclusion of other amplifier manufacturers. FlexRadio Systems posits that providing a specific manufacturer an advantage over other manufacturers would be contrary to the public interest.
7. Considering possible outcomes, if the Commission grants the Request for Waiver yet denies Petition RM-11767, the Commission would have provided a single manufacturer of HF amplifiers in the Amateur Radio service a unique advantage over all other manufacturers, stifling competition contrary to public interest.
8. A timely ruling on RM-11767 will have the effect requested in the Request for Waiver, for all manufacturers.

For the reasons stated above, FlexRadio Systems respectfully requests the Commission deny the Waiver, ruling, instead, on RM-11767 in due course.

/s/

Stephen M. Hicks, N5AC
VP Engineering
FlexRadio Systems

⁴ See filing ID 60001982321 from Gerald F. Youngblood on behalf of FlexRadio Systems, comments to RM-11767